

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CLARENCE LAMONT BUTLER,	)	
	)	Civil Action No. 11 – 826
Petitioner,	)	
	)	District Judge Terrence F. McVerry
v.	)	Chief Magistrate Judge Lisa Pupo Lenihan
	)	
COMMONWEALTH OF	)	
PENNSYLVANIA and THE	)	
ATTORNEY GENERAL OF THE	)	
STATE OF PENNSYLVANIA,	)	
	)	
Respondents.	)	

**MEMORANDUM ORDER**

This case is before the Court on the Report and Recommendation issued by Chief Magistrate Judge Lisa Pupo Lenihan on July 23, 2013, recommending that the Petition for Writ of Habeas Corpus be denied. The parties were served with the Report and Recommendation and informed that they had until August 9, 2013, to file written objections. Petitioner filed untimely objections to the Report and Recommendation on August 12, 2013.<sup>1</sup> Notwithstanding the untimeliness, Petitioner's objections do not undermine the recommendation of the magistrate judge. As such, after *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the objections thereto, the following order is entered.

**AND NOW**, this 20th day of August, 2013,

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<sup>1</sup> This is the filing date under the "mailbox rule." Pennsylvania and federal courts employ the prisoner mailbox rule. See *Perry v. Diguglielmo*, 169 Fed. Appx. 134, 136 n.3 (3d Cir. 2006) (citing *Commonwealth v. Little*, 716 A.2d 1287 (Pa. Super. Ct. 1998)); *Burns v. Morton*, 134 F.3d 109, 113 (3d Cir. 1998). Under this doctrine, a prisoner's *pro se* pleading is deemed filed when delivered to prison officials for mailing. See *Burns*, 134 F.3d at 113; *Commonwealth v. Castro*, 766 A.2d 1283, 1287 (Pa. Super. Ct. 2001) (deemed filed when given to proper prison authority or placed in a prison mailbox). Petitioner's objections are postmarked August 12, 2013.

**IT IS HEREBY ORDERED** that the Petition for Writ of Habeas Corpus (ECF No. 3) is **DENIED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation dated July 23, 2013, (ECF No. 11), is **ADOPTED** as the opinion of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

s/Terrence F. McVerry  
United States District Judge

cc: Clarence Lamont Butler  
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(Via First Class U.S. Postal Mail)

Counsel of Record  
(Via ECF Electronic Mail)